

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHRISTOPHER COLEMAN)	
)	Case No. 08 1027
Plaintiff,)	
)	Judge Gettleman
v.)	
)	Magistrate Judge Valdez
P.O. FRANO, P.O. LAURETO,)	
P.O. FICO, and P.O. NAPOLI, individually)	
)	Jury Demand
Defendant.)	

NOTICE OF FILING AND CERTIFICATE OF SERVICE

TO: Ronak Patel
Grefory E. Kulis & Associates
Attorneys for Plaintiff
30 N. LaSalle St., Suite 2140
Chicago, IL 60602

PLEASE TAKE NOTICE that on July 31, 2008, I have caused to be filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **DEFENDANTS FRANO, LAURETO, FICO AND NAPOLI'S ANSWER, AFFIRMATIVE DEFENSES, AND JURY DEMAND TO PLAINTIFF'S COMPLAINT**, a copy of which is herewith served upon you.

I hereby certify that I have caused a true and correct copy of the above and foregoing **DEFENDANTS FRANO, LAURETO, FICO AND NAPOLI'S ANSWER, AFFIRMATIVE DEFENSES, AND JURY DEMAND TO PLAINTIFF'S COMPLAINT**, to be sent via e-filing to the persons named in the foregoing Notice, "Filing Users" pursuant to Case Management/Electronic Case Files, on July 31, 2008, in accordance with the rules on electronic filing of documents.

Respectfully submitted,

/s/ Gail Reich
GAIL REICH
Assistant Corporation Counsel

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DEFENDANTS' ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

Defendants, Chicago Police Officers, John Frano, Steven Laureto, Michael Napoli, and Vincent Fico, (hereinafter "Defendant Officers"), by their attorney, Gail Reich, Assistant Corporation Counsel, hereby submit their Answer, Affirmative Defenses, and Jury Demand to Plaintiff's Complaint:

COUNT I - EXCESSIVE FORCE

This action is brought pursuant to the Laws of the United States Constitution, specifically 42 U.S.C. §1983 and 1988, and the laws of the State of Illinois, to redress deprivations of the Civil Rights of the Plaintiff and accomplished by acts and/or omissions of the Defendant committed under color of law.

ANSWER: Defendant Officers admit that this action is brought pursuant to 42 U.S.C. §1983 and §1988, and that at the time alleged in the complaint, they were acting under color of law. Defendant Officers deny the remaining allegations contained in this paragraph and deny any wrongful or illegal conduct.

1) Jurisdiction is based on Title 28 U.S.C. §1343 and §1331 and supplemental Jurisdiction of the State of Illinois.

ANSWER: Defendant Officers admit that this Court has jurisdiction over this matter, but deny that this court has supplemental jurisdiction, as plaintiff has not made any allegations pursuant to Illinois State law.

2) The Plaintiff, CHRISTOPHER COLEMAN, is an United States citizen and a permanent resident of the State of Illinois.

ANSWER: Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore those allegations are deemed denied.

3) The Defendants, P.O. FRANO, LAURETO, FICO, and NAPOLI, were at all relevant times a duly appointed officers of the City of Chicago and at all relevant times, were acting within their scope of employment and under color of law.

ANSWER: Defendant Officers admit that they are police officers who work for the City of Chicago. On information and belief, Defendant Officers Napoli, Fico and Laureto admit that they were acting within the scope of their employment and under color of law on June 6, 2006. On information and belief, Defendant Officer Frano denies that he was on duty on June 6, 2006.

4) On June 6, 2006, the Plaintiff, CHRISTOPHER COLEMAN, was sitting outside 157 N. Latrobe in Chicago, Illinois.

ANSWER: Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore those allegations are deemed denied.

5) The Defendants pulled up on the scene.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

6) Plaintiff CHRISTOPHER COLEMAN was not committing any crime or breaking any laws.

ANSWER: Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore those allegations are deemed denied.

7) The Defendants jumped on the Plaintiff, handcuffed him and beat him.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

8) Plaintiff CHRISTOPHER COLEMAN was injured.

ANSWER: Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore those allegations are deemed denied.

9) Said use of force was unprovoked, excessive and, unreasonable.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

10) Said actions of the Defendants were intentional willful and wanton.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

11) Said actions of Defendants violated the Plaintiff CHRISTOPHER COLEMAN's Fourth and Fourteenth Amendment Rights of the United States Constitution and were in violation of said rights as protected by 42 U.S.C. § 1983.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

12) As a direct and proximate consequence of said conduct of Defendants, P.O. FRANO, LAURETO, FICO, and NAPOLI; the Plaintiff, CHRISTOPHER COLEMAN, suffered violations of his constitutional rights, fear, emotional anxiety, fear, pain and suffering and monetary loss and expense.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

WHEREFORE, Defendant Officers respectfully request that judgment be entered in their favor and against Plaintiff on Count I, for the costs of defending this suit, and such other relief as the Court deems just and appropriate.

COUNT II - FALSE ARREST

1-10) The Plaintiff, CHRISTOPHER COLEMAN, hereby realleges and incorporates his allegations of paragraphs 1-10 of Count I as his respective allegations of paragraphs 1-10 of Count II as though fully set forth herein.

ANSWER: Defendant Officers restate their answers to paragraphs 1-10 as though fully set forth herein.

11) The Plaintiff was arrested to cover up the Defendants' illegal acts.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

12) The Plaintiff was not committing a crime.

ANSWER: Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore those allegations are deemed denied.

13) Plaintiff CHRISTOPHER COLEMAN was arrested and charged.

ANSWER: Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore those allegations are deemed denied.

14) These charges were false.

ANSWER: Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore those allegations are deemed denied.

15) The Defendants did not see Plaintiff CHRISTOPHER COLEMAN committing any crime.

ANSWER: On information and belief, Defendant Officers admit they did not see Plaintiff committing any crime on June 6, 2006.

16) The Defendants did not have probable cause to arrest Plaintiff CHRISTOPHER COLEMAN.

ANSWER: On information and belief, Defendant Officers admit that they did not have probable cause to arrest Plaintiff on June 6, 2006.

17) Said actions of the Defendants were intentional, willful and wanton.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

18) Said actions of the Defendants violated Plaintiff CHRISTOPHER COLEMAN's Fourth and Fourteenth Amendment Rights of the United States Constitution and were in violation of said rights as protected by 42 U.S.C. § 1983.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

19) As a direct and proximate consequence of said conduct of the Defendants, P.O. FRANO, LAURETO, FICO, and NAPOLI, the Plaintiff, CHRISTOPHER COLEMAN, suffered violations of his constitutional rights, emotional anxiety, fear, pain and suffering and monetary loss and expense.

ANSWER: Defendant Officers deny the allegations contained in this paragraph.

WHEREFORE, Defendant Officers respectfully request that judgment be entered in their favor and against Plaintiff on Count II, for the costs of defending this suit, and such other relief as the Court deems just and appropriate.

AFFIRMATIVE DEFENSES

1. Defendant Officers John Frano, Steven Laureto, Michael Napoli, and Vincent Fico are government officials, namely police officers, who perform discretionary functions. At all times material to the events alleged in Plaintiffs' Complaint, a reasonable police officer objectively viewing the facts and circumstances that confronted Defendant Officers could have believed their actions to be lawful, in light of clearly established law and information that Defendant Officers possessed. Therefore, Defendant Officers are entitled to qualified immunity as to Plaintiffs' federal claims.

2. To the extent Plaintiff failed to mitigate any of his claimed injuries or damages, any verdict or judgment obtained by Plaintiff must be reduced by application of the principle that Plaintiff had a duty to mitigate his claimed injuries and damages, commensurate with the degree of failure to mitigate attributed to Plaintiff by the jury in this case.

JURY DEMAND

Defendant Officers John Frano, Steven Laureto, Michael Napoli, and Vincent Fico hereby demand a jury trial.

Dated: July 31, 2008

Respectfully submitted,

/s/ Gail L. Reich
GAIL L. REICH
Assistant Corporation Counsel

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